

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8657 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BABUJI SOMAJI THAKORE

Versus

COMPETENT AUTHORITY AND DY COLLECTOR

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Appearance:

MR PM BHATT for Petitioner

Mr. TH Sompura, Asstt.GP for the State.

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 06/12/96

ORAL JUDGEMENT

Rule returnable to day. Mr. Sompura, learned Asstt.Govt. Pleader appears and waives service of rule on behalf of respondent-State. On the facts and in the circumstances of the case, the matter is taken up for final hearing to day.

2. The petitioner is the owner of several pieces of lands at village Gyaspur admeasuring 117410 square

metres. It is the claim of the petitioner that the petitioner has been cultivating these pieces of lands for several years and he, therefore, made an application for exemption under section 20 of the Urban Land [Ceiling and Regulation] Act, 1976. He disclosed his intention to carry on agricultural operations on these pieces of lands. Said application has been rejected by the Government on the ground that the petitioner did not produce any evidence in support of his claim that the lands were being cultivated by him.

2. Feeling aggrieved, the petitioner has preferred this petition. Learned advocate Mr. Bhatt has contended that the petitioner had, alongwith his application, submitted copies of village form no. 7 and 12 and the Government has erroneously rejected his application. He has also relied upon the unreported judgment of this Court rendered by the learned Single Judge on 16th December, 1994 in Special Civil Application NO. 1364 of 1987. The Court there held that the writ petitioner had made an application in the year 1984 and he had been cultivating the lands since 1979-80. If the lands were lying fallow earlier, that should not be the ground for rejecting the claim for exemption.

3. In the present case, it is contended that the lands have never been lying fallow and at least since 1975 and 1976, same are being cultivated. Learned Asstt.GP Mr. Sompura has contested the petition and has contended that if the lands were being cultivated, the petitioner ought to have produced necessary evidence before the competent authority. The petitioner has also produced copies of village form No. 7 & 12 alongwith this petition which indicate that the petitioner has been cultivating the lands at least since 1983-84. In my view, therefore, the respondents are not right in rejecting the application. Impugned order dated 1st January, 1996 annexure B to the petition is, therefore, quashed and set aside. The matter is remanded to the respondents for fresh decision on the application made by the petitioner on 10th May, 1995. Same shall be decided after considering the evidence that maybe produced by the petitioner. Mr. Bhatt states that the petitioner shall produce all the evidence upon which he relies before the competent authority within one month from to day. The petition is allowed to the aforesaid extent. Rule is made absolute accordingly. There shall be no order as to costs.

6.12.1996. ///

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